

Order

Michigan Supreme Court
Lansing, Michigan

January 29, 2014

Robert P. Young, Jr.,
Chief Justice

147487 & (20)

Michael F. Cavanagh
Stephen J. Markman
Mary Beth Kelly
Brian K. Zahra
Bridget M. McCormack
David F. Viviano,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 147487
COA: 312244
Oakland CC: 2001-177490-FC

ROGER BRIAN HESS,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the June 28, 2013 order of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Oakland Circuit Court for an evidentiary hearing on the defendant's motion for relief from judgment. The trial court abused its discretion in denying the defendant's motion for relief from judgment based on MCR 6.502(G) without assessing whether the newly discovered evidence would make a different result probable on retrial. *People v Cress*, 468 Mich 678, 682 (2003). On remand, if the trial court so finds, the defendant's motion for a new trial shall be granted.

We do not retain jurisdiction.



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

January 29, 2014


Clerk